

ASSEMBLY BILL

No. 1035

Introduced by Assembly Member Muratsuchi

February 22, 2013

An act to amend Section 53895 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1035, as introduced, Muratsuchi. Local agencies: financial reports.

Existing law requires the Controller to annually compile and publish reports of the financial transactions of each county, city, and school district within the state, together with other matters he or she deems of public interest.

Existing law provides that an officer of a local agency who fails or refuses to make and file his or her financial report within 20 days after receipt of a written notice of the failure from the Controller forfeits to the state a specified amount depending on the amount of total revenue of that local agency. Existing law raises these amounts in the case of a community redevelopment agency and a joint powers agency that issues conduit revenue bonds in the 2nd and 3rd consecutive year.

This bill would raise the forfeiture amounts for all local agencies, to which existing law does not apply. The bill would double these fines if the agency fails to submit the report to the Controller for 2 consecutive years, and would triple the fines if the agency fails to submit the report to the Controller for 3 consecutive years, in which case the Controller would be required to conduct an independent audit report, the cost of which would be reimbursed by the agency. The bill would specify that an agency that makes a forfeiture or payment pursuant to the above

provisions would still be responsible for filing the required financial report.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 53895 of the Government Code is
2 amended to read:

3 53895. (a) An officer of a local agency *to which Section*
4 *53895.5 or 53895.7 does not apply* who fails or refuses to make
5 and file his or her report within 20 days after receipt of a written
6 notice of the failure from the Controller shall forfeit to the state:

7 (1) ~~One~~ *Two* thousand five hundred dollars ~~(\$1,000)~~ (\$2,500),
8 in the case of a local agency with total revenue, in the prior year,
9 of less than one hundred thousand dollars (\$100,000), as reported
10 in the Controller's annual financial reports.

11 (2) ~~Two~~ *Five* thousand five hundred dollars ~~(\$2,500)~~ (\$5,500)
12 in the case of a local agency with total revenue, in the prior year,
13 of at least one hundred thousand dollars (\$100,000) but less than
14 two hundred fifty thousand dollars (\$250,000), as reported in the
15 Controller's annual financial reports.

16 (3) ~~Five~~ *Ten* thousand dollars ~~(\$5,000)~~ (\$10,000) in the case of
17 a local agency with total revenue, in the prior year, of at least two
18 hundred fifty thousand dollars (\$250,000), as reported in the
19 Controller's annual financial reports.

20 (b) (1) Upon the request of the Controller, the Attorney General
21 shall prosecute an action for the forfeiture in the name of the people
22 of the State of California.

23 (2) Upon a satisfactory showing of good cause, the Controller
24 may waive the penalties for late filing provided in this section.

25 (c) *If an officer of a local agency fails or refuses to make and*
26 *file his or her report within 20 days after receipt of a written notice*
27 *pursuant to subdivision (a) for two consecutive years, the forfeiture*
28 *assessed pursuant to paragraphs (1), (2), and (3) of subdivision*
29 *(a) in the second year shall be doubled.*

30 (d) *If an officer of a local agency fails or refuses to make and*
31 *file his or her report within 20 days after receipt of a written notice*
32 *pursuant to subdivision (a) for three consecutive years, the*
33 *forfeiture or fine assessed pursuant to paragraphs (1), (2), and*

1 (3) of subdivision (a) in the third year shall be tripled. In this case,
2 the Controller also shall conduct, or cause to be conducted, an
3 independent financial audit report. With respect to a community
4 redevelopment agency, the audit report shall be consistent with
5 Section 33080.1 of the Health and Safety Code, and in with respect
6 to a joint powers agency, the audit report shall be consistent with
7 Section 6505. The agency shall reimburse the Controller for the
8 cost of complying with this subdivision.

9 (e) An agency that makes a forfeiture or payment pursuant to
10 this section shall still be required to file the report required
11 pursuant to Section 53891.